

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SANDHU FARM INC., a Washington corporation; JAGMOHAN S. SANDHU and KARMJIT K. SANDHU, husband and wife; INDERJIT SANDHU and CHARMJIT SANDHU, husband and wife; and SHAMSHER S. SANDHU and DHARMVIR K. SANDHU, husband and wife,

Plaintiffs,

v.

FERROSAFE, LLC, an Arizona limited liability company registered to do business in Washington; and BNSF RAILWAY COMPANY, a Delaware corporation registered to do business in Washington,

Defendants.

Case No.: 21-cv-01580

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant Ferrosafe, LLC (“Ferrosafe”) hereby removes to this Court the State Court Action described below and, in support of this Notice, shows the Court as follows:

1. Intradistrict Assignment: This matter is being removed to Western District at Seattle per LCR 3(e)(1) and Plaintiffs’ Complaint because at least one Plaintiff is a resident of

1 Skagit County, and the incident giving rise to Plaintiffs' claim of injury took place in Skagit  
2 County.

3 2. State Court Action: Ferrosafe is a defendant in a civil action filed in the Superior  
4 Court of Washington, in and for Skagit County, captioned, *Sandhu Farm Inc. et al. v. Ferrosafe,*  
5 *LLC, et al.*, Cause No. 21-2-00607-29 (the "State Court Action").

6 3. Commencement of State Court Action: On or about October 15, 2021, Plaintiffs  
7 filed their Complaint in the Skagit County Superior Court. An Amended Complaint was filed on  
8 November 22, 2021. A copy of the Amended Complaint is filed contemporaneously with this  
9 notice, pursuant to LCR 101. This Notice of Removal is timely, in that it is being filed within 30  
10 days of the dates on which Ferrosafe was served with the Complaint, October 25, 2021. To date,  
11 Ferrosafe has only filed its Notice of Appearance in the State Court Action.

12 4. Diversity of Citizenship is Basis for Federal Court Jurisdiction: This dispute  
13 between Plaintiffs and Defendants is a controversy between citizens of different states and nations,  
14 as set forth below:

- 15 a. Plaintiff Sandhu Farms, Inc. is a Washington Corporation with its principal place of  
16 business in Bow, Washington.
- 17 b. Plaintiffs Jagmohan S. Sandhu, Karmjit K. Sandhu, Inderjit Sandhu, Charmjit  
18 Sandhu, Shamsheer S. Sandhu, Dharmvir K. Sandhu are each citizens of British  
19 Columbia, Canada.
- 20 c. Defendant Ferrosafe is, and at all material times has been, a corporation organized  
21 and existing under the laws of the State of Arizona, with a principal place of  
22 business in Auburn, Alabama.
- 23 d. Defendant BNSF Railway Company ("BNSF") is, and at all material times has  
24 been, a corporation organized and existing under the laws of the State of Delaware,  
25 with a principal place of business in Fort Worth, Texas.
- 26

1           5.     Nature and Description of Case: The above-entitled action is a civil action arising  
2 under Washington law, seeking damages for a claim of injury to property, trespass, nuisance,  
3 breach of contract, and seeking a permanent injunction over railroad operations.

4           6.     Amount in Controversy: The amount in controversy is not expressly set forth in  
5 Plaintiffs' Amended Complaint. However, Plaintiffs' claims for damages include damages for  
6 "lost production value of the injured blueberry plants, and non-economic damages, including,  
7 but not limited to, emotional distress damages, and further entitled to have all such damages  
8 trebled based upon the willful acts of Ferrosafe, all of which were not casual or involuntary," in  
9 addition to attorney's costs and fees. Plaintiffs are claiming damage to their crops over the  
10 course of multiple years, and seeking treble damages of the same. Pursuant to LCR 101,  
11 Ferrosafe has a good faith belief that the Plaintiffs are seeking damages in excess of the  
12 jurisdictional threshold amount of \$75,000.00.

13           7.     Applicable Statutes: This is a civil action over which this Court has original  
14 jurisdiction pursuant to 28 U.S.C. § 1332, and the action is removable pursuant to 28 U.S.C.  
15 § 1441(b).

16           8.     Joinder by All Defendants: Pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants  
17 who have been properly joined and served hereby join in or consent to the removal of the action.  
18 Pursuant to 28 U.S.C. § 1441(b)(1), in determining whether a civil action is removable on the  
19 basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued  
20 under fictitious names shall be disregarded.

21           9.     Concurrent Notice to State Court: Ferrosafe is concurrently filing a copy of this  
22 Notice of Removal with the Clerk of the Skagit County Superior Court, pursuant to 28 U.S.C. §  
23 1446(d).

24           WHEREFORE, Defendant Ferrosafe prays that this action be removed to the United  
25 States District Court for the Western District of Washington in Seattle.

1 DATED: November 23, 2021.

2 COZEN O'CONNOR

3 /s/ J.C. Ditzler

4 J.C. Ditzler, WSBA No. 19209  
5 999 Third Avenue, Suite 1900  
6 Seattle, Washington 98104  
[jditzler@cozen.com](mailto:jditzler@cozen.com)

7 /s/ Robert D. Lee

8 Robert D. Lee, WSBA No. 46682  
9 999 Third Avenue, Suite 1900  
10 Seattle, Washington 98104  
[rlee@cozen.com](mailto:rlee@cozen.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, the foregoing was filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mark J. Lee, WSBA #19339 Haylee J. Hurst, WSBA #51406 Elizabeth Slattery, WSBA #56349 Wolf & Lee, LP 230 E. Champion St. Bellingham, WA 98225 P: (360) 676-0306 <a href="mailto:mark@bellinghamlegal.com">mark@bellinghamlegal.com</a> <a href="mailto:haylee@bellinghamlegal.com">haylee@bellinghamlegal.com</a> <a href="mailto:elizabeth@bellinghamlegal.com">elizabeth@bellinghamlegal.com</a> <i>Attorneys for Plaintiffs</i>	Michael Chait, WSBA #48842 Montgomery Scarp & Chait PLLC 17600 Vashon Hwy. Suite 105 P.O. Box 1977 Vashon, WA 98070 P: (206) 625-1801 <a href="mailto:mike@montgomeryscarp.com">mike@montgomeryscarp.com</a> <i>Attorney for BNSF Railway Company.</i>
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DATED: November 23, 2021.

/s/ Jan Young  
Jan Young, Legal Assistant